



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

August 12, 2011

Mr. Dana Reed
Reed & Davidson, LLP
o/b/o Mr. Luigi Vernola

REDACTED

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Warning Letter Re: FPPC No. 11/723, Luigi Vernola

Dear Mr. Reed:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act"),¹ found in Government Code section 81000, et seq. This letter is in response to a complaint filed against your client, Mr. Luigi Vernola, which alleged he had a conflict of interest when he voted to approve a register warrant.

The FPPC has completed its investigation of the facts in this case. Specifically, the FPPC found that at the April 5, 2011 City Council meeting, Mr. Vernola voted to approve the Final Warrant Register dated March 22, 2011, which included a payment of \$225.00 made payable to Vernola's Tow Service, an entity in which your client has an economic interest.

The Act prohibits any public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest. (Section 87100.)

Your client's actions violated the Act because he failed to recuse himself regarding the decision to approve the warrant register. In voting to approve a payment made to Vernola's Tow Service, Mr. Vernola made a governmental decision in which he had a financial interest. Even if Mr. Vernola was not involved in the decision to award a contract to Vernola's Tow Service, the FPPC has routinely advised that the routine approval of warrants constitutes making a governmental decision. (Regulation 18702.1 and *Shupe* Advice Letter A-08-095,

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

enclosed.) However, because the amount approved in the warrant register was de minimus in comparison to the total amount approved, and the fact that your client does not have an enforcement history, we are closing our file on this matter with a warning letter.

Please note that the FPPC has advised that under certain circumstances, a public official disqualified from one decision may participate in other related decisions provided that the official's participation does not affect the decision in which he or she has a conflict of interest. Regulation 18709 (enclosed) allows an agency to segment a decision in which a public official has a financial interest to allow participation by the official, provided certain criteria in the regulation are followed. If the item for which Mr. Vernola is disqualified could be removed from the consent calendar, then this would enable Mr. Vernola to participate in decisions regarding the consent calendar.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide your client with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If your client wishes to avail himself of these proceedings by requesting that his case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

Please feel free to contact Teri Rindahl at 916.327.2018 with any questions you may have regarding this letter.

Sincerely,

REDACTED

Gary S. Winuk

Chief, Enforcement Division

GSW/tr

Enclosures

cc: Jerry Ori